TORTS — MALICIOUS ABUSE OF PROCESS — SATISFACTION. — The defendant maliciously directed an officer to levy an attachment on the goods of the plaintiff, who was not his judgment debtor. The plaintiff replevied the goods from the officer, and in the replevin suit obtained a judgment against the officer for damages, which remain unpaid. *Held*, that the return of the goods is not a bar to this action against the defendant for malicious abuse of process. *Vincent* v. *McNamara*, 39 Atl. Rep. 444 (Conn.).

It is settled that an action for malicious abuse of legal process will lie where a wrongful attachment is levied. Recovery was therefore properly allowed for damages to the goods and business losses sustained by the plaintiff by reason of the attachment. *Zinn* v. *Rice*, 161 Mass. 571. The decision is correct also on another ground. The return of the goods alone was only partial satisfaction, and therefore, according to the weight of American authority, was not a bar to the present action against a joint tort-feasor. *Lovejoy* v. *Murray*, 3 Wall. 1. For this reason the result in the principal case seems preferable to that reached in *Karr* v. *Barstow*, 24 Ill. 580. The court there decided that a recovery in replevin with a return of the goods is a bar whether the damages awarded in the replevin suit be paid or not, because "the return is a satisfaction for the trespass."

TRUSTS — GIFT OF CHOSE IN ACTION — BOOK OF ACCOUNTS. — An intestate delivered to the plaintiff as a gift his book of accounts. In an action against the administrator to recover the proceeds of the accounts subsequently collected by him, *held*, that the plaintiff is entitled to recover. *Jones' Admr.* v. *Moore*, 44 S. W. Rep. 126 (Ky.).

It was held in *Ashbrook* v. *Ryan*, 2 Bush, 228, that a gift of an ordinary depositor's pass-book is not a valid gift of the deposit. A pass-book is generally regarded as not sufficiently resembling a specialty obligation to make its transfer a transfer of the debt. This reasoning seems to apply equally to an account-book. The principal case may be supported on the theory that the delivery of the book vested in the donee an implied power of attorney to collect the debt for his own benefit, which power was irrevocable because coupled with an interest, viz., legal title to the book. The term "legal interest," however has hitherto been restricted to something necessary to the collection of the debts; nor have the courts regarded these transactions as transfers of powers of attorney.

REVIEWS.

LAW AND POLITICS IN THE MIDDLE AGES. By Edward Jenks. New York: Henry Holt & Co. 1898. pp. xiii, 352.

This book is a valuable contribution to legal history. It is a lucid exposition of those ideas and institutions which have had an abiding influence upon law and government. In the first two chapters Austin's doctrine, that law is the arbitrary command of the State, is shown to be untrue as regards the Middle Ages. The *leges barbarorum* and the feudal custumals were more or less declaratory of existing usages. Changes or reforms were adopted in practice and then declared to be law. It is not until England produces the first national law of medieval Europe, after the establishment of Parliament by Edward I., that Austin's doctrine becomes approximately true. In succeeding chapters the writer traces the early history of the State and of the administration of justice; the origin of the village, the hundred, and the shire; and the inception of our ideas of property and contract. Chapter V. contains an admirable account of how the local districts in France and Germany became fiefs, while in England the Anglo-Norman kings converted the shires into State districts administered by royal officials, and thus succeeded in reconciling a strong monarchy with local government. Students of legal history will

be particularly interested in Chapters VI. and VII., which deal with the origin of property and contract.

The philosophic principle which runs through all the author's investigations is the conflict between the State and the clan; this, he says, is "the key to the internal politics of the Middle Ages." He seems at times to exaggerate this struggle and to postulate with too much freedom the survival of the clan. It is difficult, for example, to follow him when he refers to the "moots of the clan" during and after the ninth century (pp. 125, 132), though he evidently means the local popular courts. Nor can we agree with him that the gild and the monastery are artificial forms of the clan (p. 309).

In Chapter III. he seems to ascribe too much influence to the feudal element in developing the royal power, especially in France, and too little influence to the Romanizing legists.

But we feel more inclined to praise than to criticise this volume. Mr. Jenks has, indeed, produced a book of great merit, which displays wide learning in the comparative history of the legal systems of the Middle Ages. In a work so broad in view and covering so much ground we must expect to find some errors of fact, like the statement that Hugh the Great was king of the Western Franks (pp. 85, 87); but such slips do not seem to be frequent. The treatise as a whole may be warmly recommended to students of legal and constitutional history. No other English book contains so good and comprehensive an account of early Teutonic systems of law. C. G.

THE SCIENCE OF LAW AND LAWMAKING. By R. Floyd Clarke. New York: The Macmillan Co. 1898. pp. xvi, 451.

Mr. Clarke's book should be welcomed as affording to the general reader an introduction to the study of law suggestive of the beauty and interest of its problems, and as giving for the first time a comprehensive discussion of the problem of codification. The book is not a complete or exhaustive treatise on "the science of law," a subject whose scope is not within such moderate limits; but the writer has attempted merely to outline in brief the source of law, its relation to other sciences, and its gradual development into case and code law. A bird's-eye view of the English law as it exists to-day in its various branches, with an explanation of the technical terms used, puts the general reader in a position to pursue intelligently the problem of "codification *versus* the case law system," — a question that is strangely ignored by many of our better citizens.

In advocating the cause of the case law system, the real substance of the book, the writer has accomplished his purpose well. The division of the chapters into so many headings adds little to the clearness or literary merit of the work, but the argument is, on the whole, coherent and convincing. By applying the principles of the decisions in the case law and the rules of the principal codes now in existence to one branch of law, contracts in restraint of trade, he demonstrates, by a comparison of the results, that a code can be brief only at the expense of accomplishing justice, or justice-giving only at the expense of all practical brevity. One great advantage of the case law system, as Mr. Clarke points out, is that a code, like a statute, must be followed according to the strict construction of the language used, while in a decided case all that is material is the